

1 HONORABLE RONALD B. LEIGHTON
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 BOBBIE L. VANN,

11 Plaintiff,

12 v.

13 PIERCE COUNTY SUPERIOR COURT
14 OF WASHINGTON,

15 Defendant.

16 CASE NO. C13-5635 RBL

17 ORDER DENYING PLAINTIFF'S
18 APPLICATION TO PROCEED *IN
19 FORMA PAUPERIS* AND DENYING
20 PLAINTIFF'S APPLICATION FOR
21 COURT APPOINTED COUNSEL

22 (DKTS. #1 AND #2)

23
24 THIS MATTER is before the Court on Plaintiff Bobbie Vann's application to proceed *In
Forma Pauperis* [Dkt. #1] and her application for court-appointed counsel. [Dkt. #2]. The Court
denies both applications.

25 **A. Application to Proceed *In Forma Pauperis*.**

26 A district court may permit indigent litigants to proceed *in forma pauperis* upon
27 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad
28 discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil
actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th
Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should "deny leave to proceed
in forma pauperis at the outset if it appears from the face of the proposed complaint that the

29 ORDER DENYING PLAINTIFF'S APPLICATION
30 TO PROCEED IN FORMA PAUPERIS AND
31 DENYING PLAINTIFF'S APPLICATION FOR
32 COURT APPOINTED COUNSEL - 1

1 action is frivolous or without merit.” *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369
 2 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis*
 3 complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v.*
 4 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir.
 5 1984)).

6 Vann’s proposed Complaint is almost indecipherable, but it appears to be based on the
 7 fact that Pierce County Superior Court Judge Garold E. Johnson ruled against her in a tort claim
 8 where she was the plaintiff (Cause Number 1-2-0578-1). She apparently claims the Judge should
 9 have allowed the case to go to a jury and did not, and takes issue with the Judge’s determination
 10 that she did not provide sufficient evidence of her claimed injuries.

11 It is well-settled that judges enjoy absolute judicial immunity from civil suit for judicial
 12 acts taken within the scope of their jurisdiction. *Pierson v Ray*, 386 U.S. 547, 553-54 (1967);
 13 *Stump v. Sparkman*, 435 U.S. 349, 355-56 (1978).

14 Because Vann’s proposed complaint is frivolous on its face, her application to proceed
 15 IFP is **DENIED**.

16 **B. Application for Court Appointed Counsel.**

17 Under 28 U.S.C. § 1915(e)(1), the court may request an attorney to represent any person
 18 unable to afford counsel. Under §1915, the court may appoint counsel in exceptional
 19 circumstances. *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). To find exceptional
 20 circumstances, the court must evaluate the likelihood of success on the merits and the ability of
 21 the petitioner to articulate the claims pro se in light of the complexity of the legal issues
 22 involved. *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).

23

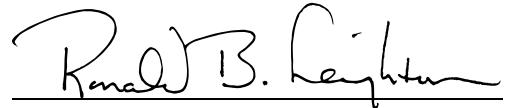
24

1 Because the Judge has absolute judicial immunity as a matter of law, Vann cannot meet
2 her burden of showing any likelihood of success on the merits. Her application for court
3 appointed counsel is **DENIED**.

4 Further, because of the inherent flaws in this claim, the Court will dismiss it *sua sponte* if
5 the Plaintiff pays the filing fee and attempts to bring this case absent IFP status.

6 IT IS SO ORDERED.

7 Dated this 12th day of September, 2013.

8 
9

10 RONALD B. LEIGHTON
11 UNITED STATES DISTRICT JUDGE

12
13
14
15
16
17
18
19
20
21
22
23
24